consult his solicitors with regard to these proceedings, the writ having then been issued to the knowledge of all parties, the plaintiff caused the writ to be served on the applicant at his hotel on 24th February. Upon those facts I cannot see that the plaintiff's conduct in any way constituted an abuse of the process of the Court.

The application must be dismissed, and the costs of and incidental to it and all costs thrown away must be taxed and paid by the 1st defendant to the first plaintiff.

Application Dismissed.

GOH OON KEOW (f) AND ANOTHER v. REX.

[App. Crim. Juris. (Murray-Aynsley, C.J.) May 11, 1948]
[Singapore — Magistrate's Appeal No. 31 of 1948]

Criminal Procedure Code S. 187 — Withdrawal of Charges — Order of discharge — Whether order of discharge should be made amounting to acquittal or not.

In this case the learned Chief Justice on appeal altered an order of discharge not amounting to acquittal made by the learned District Judge to an order of discharge amounting to acquittal. He pointed out that the power given by Section 187 of the Criminal Procedure Code to the prosecution may, unless vigilance is displayed by Courts of Summary Jurisdiction, result in oppression and that it is the duty of such Courts to prevent this.

MAGISTRATE'S APPEAL.

D. K. Walters for the Appellants.

M. Buttrose (D. P. P.) for the Respondent.

Murray-Aynsley, C.J.:— In this case the appellants were charged with various offences against Proclamation No. 43. Certain charges were withdrawn and in respect of these the learned District Judge made an order of discharge not amounting to an acquittal. Against this order there is an appeal. As counsel for the prosecution has not opposed an order of discharge amounting to an acquittal, it is not necessary for me, in making such an order, to say anything about this particular case, but I think this is a suitable occasion to point out that the power given by section 187 of the Criminal Procedure Code to the presecution may, unless vigilance is displayed by Courts of summary jurisdiction, result in oppression and that it is the duty of such Courts to prevent this.

Appeal Allowed.

TAN KIM KANG v. REX.

[App. Crim. Juris. (Murray-Aynsley, C.J.) May, 19, 1948]
[Singapore — Magistrate's Appeal No. 28 of 1948]

Minor Offences Ordinance S. 34 — Fraudulent possession of property — Burden of proof.

In this case the appellant had been convicted under S. 34 of the Minor Offences Ordinance, although the property in question was not found in his possession.

Held, (1) that as the property in question was not found in the possession of the appellant the case did not come within the scope of subsection (1) of Section 34 of the Minor Offences Ordinance; (2) that the case did not come within subsections (2) and (3) as the person in whose possession the property was found was not charged and further there was no evidence that the property had been stolen or fraudulently obtained.

MAGISTRATE'S APPEAL.

R. Boswell for the appellant.

M. Buttrose (D.P.P.) for the respondent.

Murray-Aynsley, C.J.:—In this case the appellant was charged under section 34 of Cap. 24. The property in question was not found in the possession of the appellant and therefore the case did not come within the scope of sub-section (1). The case did not come within sub-sections (2) and (3) because the person in whose possession the property was found was not charged, and further there was no evidence that the property had been stolen or fraudulently obtained.

It should be noted that the burden of proof in sub-section (3) is quite different from that in sub-section (1). In sub-section (3) the burden of proof imposed on the prosecution is, to all intents and purposes, the same as in the case of a charge under section 411 of the Penal Code.

The conviction was, therefore, quashed.

Appeal Allowed.

H. MOHAMED SALLEH v. ANG CHAN SIONG.

[App. Civil Juris. (Murray-Aynsley, C.J.) May 20, 1948]
[Singapore — District Court Appeal No. 25 of 1947]

Landlord and Tenant — Whether payment of rent by cheque constitutes a valid tender.

This was an appeal from the decision of the Civil District Judge, Singapore. The landlord brought an action for ejectment against the defendant and relied on the contention that rent had been in arrear for fourteen days. The point in dispute was whether the tenant had made an effective tender of the rent. The rent was payable in advance for the period July 5th to August 4th 1947. On July 10th the attorney of the tenant sent by registered post to the landlord a cheque for the amount of the rent due. The cheque was drawn by the attorney. On a previous occasion in June a cheque had been sent by the tenant and accepted.

Held, (1) that a cheque is not good tender in the absence of an agreement to that effect; (2) that the previous acceptance of a cheque does not make a cheque good tender on subsequent occasions; (3) that there was no evidence to show that the landlord had waived objection to the form of payment; and (4) that therefore there was no effective tender of rent.

APPEAL FROM CIVIL DISTRICT JUDGE.

Claude da Silva for the Appellant.

John Laycock for the Respondent.

Murray-Aynsley, C. J. : — This is a landlord and tenant case. The landlord in ejectment proceedings relied on the fact that rent had been in arrear for 14 days. The point in dispute is whether the tenant made an effective tender of rent.